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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 77-1692

EDWARD RONWIN, Petitioner,

v.

THE SUPREME COURT OF
THE STATE OF ARIZONA,
Respondent.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

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Petitioner pro se

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ARGUMENT

I. Specific Rebuttal

Rather than demonstrate why the question presented in Petition should not be decided by this Court, (see speech by Chief Justice Vinson before the Amer. Bar Asso., Sept. 7, 1949; 69 S.Ct. v,vi),

the "Brief in Opposition..," (hereinafter, "Response") represents an effort to brief and argue the merits of the case. Despite the diversionary potential, as measured by Chief Justice Vinson's comments, clarification of various matters raised in Response is appropriate.

Response attempts to erect a distinction between the question before the Iowa Supreme Court with respect to Petitioner's mental capacity or ability and that before the Arizona Supreme Court, (Footnote 5, pp.16,17, Response). However, the record made before the Iowa Supreme Court, which was in evidence before the Arizona Supreme Court on March 9, 1978, reveals that counsel for the Iowa Bar's Committee on Professional Ethics and Conduct drew an exact identity of issue before the two Supreme Courts;Transcript of Proceedings Before Iowa Supreme Court,

June 22, 1977, p. 5, lines 17-22:

> "...That Court [Arizona Supreme Court] then found or, within our Rule, adjudicated that Mr. Ronwin is not mentally fit to practice law and that is the same as saying within the purview of 118.16 [Iowa's Rule] that he is incapacitated mentally from engaging in the practice of law."

Clearly, the nine Justices of the Supreme Court of Iowa and the five Justices of the Supreme Court of Arizona had an identity of issue and of record before each other; and, each Court came to a unanimous, but opposite, decision,(Petition, Appendix, pp. A-1 to A-3; A-9; and pp. A-4 to A-8).

The technique of "advocacy by reputation" in the form of the naming of a former counsel to Petitioner who is person-

ally known to one or more Justices of this Court and who is now an adversary in litigation with Petitioner, (Footnote 1, p. 6; and p.8, lines 4-6 and line 15, Response) is grossly offensive. Suffice at this juncture to say that in the record in this cause there are matters which arose in Ronwin v. Daughton, Civ. No. 76-872 PHX, whose content concerning said counsel's behavior may cause this Court to seriously consider the disbarment of the named counsel from the Bar of this Court. Petitioner's charges against said counsel were labelled "reckless" by the Iowa Bar counsel; however, Petitioner placed the above-mentioned matter from the above-cited U.S. District Court case before the Iowa Supreme Court and argued in rebuttal of the "reckless" label. Apparently, the charges appeared credible to the Iowa Supreme Court.

Equally offensive is the attempt to impart merit to the positions of Petitioner's adversaries in the aforesaid U.S. District Court case by reciting the number and positions of the defendants, (erroneously, since only one member of the Special Committee was sued), (p. 7, line 19 to p.8, line 17, Response). No civilized, legal process judges the merits of a case by concern for either the numbers or the social, political or economic positions of the litigants.

Candor would require that this Court have been informed in Response that in Ronwin v. Segal, Civ. No. 76-924 PHX, (p. 8, line 17 to p.9, line 3, Response), the committee's finding was made without any hearing despite demand for same; and without any opportunity to demonstrate that Petitioner was and is mentally able to practice law.

The hearing of oral argument on March 9, 1978 before Respondent (p.10, line 22 to p. 11, line 5, Response), was a hearing at which Petitioner was denied the right to take depositions of witnesses or to call and cross-examine witnesses. Notably, Respondent refused to allow Petitioner to depose the only "expert" who earlier testified against Petitioner and who, according to a Judge of the Superior Court of Arizona, was a patient in a mental hospital within a short time after he purportedly examined Petitioner. No reason for the denial of the opportunity to explore said "expert's" state of mind when he examined Petitioner has been given by Respondent; nor, for the refusal to allow Petitioner to call and examine witness on Petitioner's present state of mind.

The standard for physical therapists

in Arizona is not precise contrary to Response (Footnote 6, p. 21), since an Arizona "court of competent jurisdiction," A.R.S.§32-2042(4), using the non-medically recognized mental illness standard of the Arizona Supreme Court, which led to this case, would raise the very same issue as presented herein. That is most certainly the case for the other professions cited in Petition which do not even call for the intercession of a court, (Appendix, Petition, p.A-16); and, for similar procedures in other States which might adopt Respondent's standard.

The argument on res judicata, (pp.22-25, Response), is tantamount to insisting that once a party is declared "mentally unable" he remains in that state for life. The corollary would require life detention of all persons committed to mental institutions. The theme is

medieval.

II. Why Response Fails of its Function

To effectively oppose the "Importance of the Question Presented, (pp.12-15, Petition), it is suggested that Response should have shown or provided guidance on:

1. The constitutional and other authority which creates a special class of "authority figures" who must be "gotten along with;" and, on the substance of such harmony.

2. The evidence which validates the existence of a non-medically recognized mental disease; and, on the known symptoms of same. In addition, the parameters and instruments of diagnosis and methods of treatment should have been revealed. Also, some detail should have been provided on what would enable an "expert" or qualified person to pro-

nounce a cure; and, indeed, some description of the type of person who is adequately trained to diagnose, treat and pronounce cure of the extraordinary mental malady. Equally important, Response gives no information on the essence and constituents of the "substantial change" which Respondent continues to assert has not been shown by Petitioner, (Petition, Appendix, pp. A-1 to A-3).

3. How Petitioner can be held to be mentally unable by Respondent in the face of the testimony and reports of five psychiatrists who find Petitioner perfectly able and free of mental illness. Moreover, Response should have explained why the five psychiatrists and experts in medico-mental process are less able than laymen to recognize any mental illness whether or not "medically recognized."

4. How eighteen practicing attorneys in Arizona could be so in error as to not recognize the non-medically recognized mental disease allegedly afflicting Petitioner.

5. How the nine, experienced Justices of the Iowa Supreme Court, with every bit of the same record before them, that the Arizona Supreme Court had on March 9, 1978, could be so mistaken,too.

6. Why the Arizona Supreme Court standard of the non-medically recognized mental illness cannot be employed to provide potent cover for the exercise of religious, racial, ethnic or other invidious bigotry.

7. Why the standard applied by Respondent in this cause cannot be extended to other professions and trades requiring mental ability for licensing in Arizona; or, to the securing and holding of

general, private and government employment even if no specific mental qualification is required; and, why Respondent's standard cannot find application in other States.

Response is silent on the above matters and thereby has not demonstrated a lack of importance in the question presented by Petitioner. The concept of a non-medically recognized mental disease or disorder which Respondent has adopted must be rejected for, in the very words of the Response, it prima facie, (p.18, lines 2-5):

> "...is based upon wholly arbitrary [and utterly undefined] standards [and] upon considerations that offend the dictates of reason..."

It is common knowledge that our language has been abundantly enriched by

many technical terms among which are such words and expressions as "paranoid," "paranoid personality,"(not at all equatable with paranoia), "psychotic," "neurotic," etc. The laymen readily adopts these terms to enliven his speech. When, as the expert testimony in the record below shows, even the experts are by no means unanimous on the meaning or utility of terms such as "paranoid personality," can one reasonably expect precision in the use of medico-mental terms by the laymen? Therefore, to allow Respondent's concept of a non-medically recognized mental disease or disorder to stand would create a nightmere of abuse whereby numerous persons in Arizona and in States adopting Respondent's theme, can and will be deprived of their constitutional prerogatives at the whim of medically untutored laymen.

For the reasons given hereinabove and in the Petition, it is respectfully urged that the Writ of Certiorari be granted.

Respectfully submitted,

By Edward Ronwin

July, 1978